IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Jerome Cornet, et al.
For	:	CONTENT SWITCHING WITH
	:	USER-DEFINED POLICIES
Serial No.	:	10/715,425
Filed	:	November 19, 2003
Art Unit	:	2442
Examiner	:	Christopher D. Biagini
Att. Docket	:	ALC 3097
Confirmation No.	:	5332

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

   This Pre-Appeal Brief Request for Review is in response to the Office Action dated November 12, 2009, and further to the Notice of Appeal filed concurrently herewith. Applicant hereby requests review of the rejections in the above-identified application in view of the concurrently-filed Notice of Appeal. Claims 1-7 and 9-12 are pending in this application. Claims 1, 3, 5, and 7 are independent.

On pages 4-8, the Office Action rejects claims 1-7 and 9-12 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Pub. No. US2003/0028654 to Abjanic (hereinafter "Abjanic") in view of Pub. No. US2003/0097495 to Horvitz (hereinafter "Horvitz"), further in view of U.S. Patent No. 6,629,149 to Fraser (hereinafter "Fraser"), further in view of U.S. Patent No. 6,591,260 to Schwarzhoff (hereinafter "Schwarzhoff"), and still further in view of the "Java Tutorial" document.

Independent claim 1 recites, in part, the following subject matter: "wherein each application provider is a **trusted** customer of the network provider" (emphasis added). Similar recitations appear in the other independent claims. Applicant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 2, the Office Action alleges that "the concept of 'trust' is extraordinarily broad" and proceeds to essentially ignore this language. In particular, the Office Action alleges that any customer is "trusted" is some way. In response, Applicant respectfully submits that this position is inconsistent with the Office Action's subsequent application of Fraser. There would be no need to "modify the system of Abjanic with the trust and management taught by Fraser" if Abjanic had those features. Moreover, Applicant respectfully submits Abjanic lacks this feature and that Fraser fails to remedy the deficiencies of Abjanic.

In this case, "trust" would refer to some contract established between an SP and a CP, such as a Service Level Agreement (SLA). The contract would define which XACSes from the SP could be accessible for XML routing updates by the CP, which schema to use, which routing performance would be offered by the SP, and any limitations on scope. Thus, Applicant respectfully submits that it was improper for the Office Action to assume that "trust" had no particular meaning.

On page 7, the Office Action alleges that col. 15, line 45 to col. 16, line 10 of Fraser provide this subject matter. In response, Applicant respectfully submits

- 2 -

that Fraser lacks any disclosure of the recited relationship between application and network providers. Instead, the cited section of Fraser actually describes "inline agents" that "must be trusted because they manipulate packet headers." Such inline agents are not equivalent to the recited application providers.

Independent claim 1 further recites the following subject matter: "the **document** referencing a **location** of a corresponding schema" (emphasis added). This subject matter finds support in the specification, for example, in paragraph [0023]. Applicant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 3, the Office Action dismisses this subject matter, alleges that it is unclear how a document referencing that location somehow precludes it from being "central" of "generally available." In response, Applicant respectfully submits that the alleged combination provides no information regarding the location of the corresponding schema. Indeed, the Office Action's allegation of it being "generally available" would teach away from referencing a particular location.

On page 6, the Office Action alleges that Schwarzhoff provides this subject matter. In response, Applicant respectfully submits that Schwarzhoff actually does not reference the location of a schema with a document. Instead, as defined in line 9 of col. 9, Schwarzhoff can "locate and retrieve the schema by use of the URI." The URI (Uniform Resource Identifier) is located by searching a LDAP directory. The LDAP (Lightweight Directory Access Protocol) directory also is not a document. In contrast, Applicant respectfully submits that the recited "location" would be a technically accurate (physical, addressable) specification, such as an exact URL or a complete file path and name (directory structure, actual file name).

Independent claim 1 further recites, in part, the following subject matter: "instructions in the **parser** that **fetch** the corresponding schema" (emphasis added). Similar recitations appear in the other independent claims. Applicant

- 3 -

respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

As correctly conceded on page 6 of the Office Action, Abjanic fails to explicitly show a schema document. Moreover, Abjanic teaches away from the claimed invention. As recited in paragraph [0030] of Abjanic, XML switching is offloaded from application servers to a network apparatus. Therefore, Abjanic's use of an XML director in a network apparatus to route or direct messages, as recited in paragraph [0028], would teach away from the claimed subject matter of having routing rules within a schema. Applicant respectfully submits that the Office Action fails to provide articulated reasoning to justify the combination of inconsistent excerpts from multiple prior art references.

Independent claim 1 also recites, in part, the following subject matter: "instructions in the parser that **validate** the sent document according to the fetched schema" (emphasis added). Similar recitations appear in the other independent claims. Applicant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On pages 6 and 7, the Office Action alleges that Schwarzhoff discloses fetching of a schema document and validation of a document according to the fetched schema. In particular, the Office Action alleges that Schwarzhoff could be applied to Abjanic's system to "ensure that the documents conform to the expected format." However, Schwarzhoff's teachings are actually drawn to polymorphic schemas. As disclosed in lines 20-24 of col. 6 in Schwarzhoff, to support polymorphic schemas, the schemas must be available in a generally available repository and have globally unique names. As described above, these centralized teachings teach away from the claimed invention.
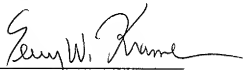
Independent claim 1 also recites, in part, the following subject matter: "instructions in the parser that **pass the validated document** to a routing

instruction processor" (emphasis added). Similar recitations appear in the other independent claims. Applicant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 5, the Office Action relies upon paragraphs [0059] and [0083] of Abjanic for "instructions that pass the document to a routing instruction processor" and refers to "content based switching decision logic." In response, Applicant respectfully submits that Abjanic fails to disclose a <u>validated</u> document. Moreover, Abjanic's director [145: Fig. 5] does not pass the validated document to a routing instruction processor. Applicant respectfully submits that paragraph [0039] the specification of the current application clearly discloses a distinct step of passing a validated document to an XML routing instruction processor to get the routing information. Abjanic clearly does not disclose this step.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,
KRAMER & AMADO, P.C.

Date: ___February 12, 2009___

Terry W. Kramer
Registration No.: 41,541

KRAMER & AMADO, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314
Phone: 703-519-9801
Fax: 703-519-9802